

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF SEPTEMBER 20, 2006**

**REGULAR MEETING**

**9:00 A.M.**

**SEPTEMBER 20, 2006**

**PRESENT:**

<b>COMMISSIONERS:</b>	<b>Paul Biane, Chairman</b>	<b>Larry McCallon</b>
	<b>Bob Colven, Vice Chairman</b>	<b>Mark Nuaimi</b>
	<b>Kimberly Cox</b>	<b>Richard P. Pearson</b>
	<b>James V. Curatalo, Alternate</b>	<b>A.R. "Tony" Sedano, Alternate</b>
	<b>Josie Gonzales, Alternate</b>	<b>Diane Williams, Alternate</b>
	<b>Dennis Hansberger</b>	

**STAFF:**

**Kathleen Rollings-McDonald, Executive Officer**  
**Clark H. Alsop, Legal Counsel**  
**Samuel Martinez, LAFCO Analyst**  
**Michael Tuerpe, LAFCO Analyst**  
**Debby Chamberlin, Clerk to the Commission**

**9:00 A.M. – CONVENE CLOSED SESSION OF THE LOCAL AGENCY FORMATION COMMISSION** – Conference Room adjacent to the San Bernardino City Council Chambers located at 300 North D Street, First Floor, San Bernardino.

Conference with Legal Counsel – Existing Litigation (Government Code Section 54956.9(a)):  
Center for Biological Diversity v. Local Agency Formation Commission, Case No. SCVSS136990

Conference with Legal Counsel – Anticipated Litigation (Government Code Section 54956.9(b)):  
Number of Cases: One (1)

**9:15 A.M. – RECONVENE TO REGULAR MEETING OF THE LOCAL AGENCY FORMATION COMMISSION** – San Bernardino City Council Chambers.

**REGULAR SESSION - CALL TO ORDER – 9:15 A.M.**

Chairman Biane calls the regular session of the Local Agency Formation Commission to order and leads the flag salute.

Legal Counsel Clark Alsop announces that the Commission met in Closed Session on the two matters on the Agenda. He says there was no reportable action taken on either matter.

Chairman Biane requests those present who are involved with any of the changes of organization to be considered today by the Commission and have made a contribution of more than \$250 within the past twelve months to any member of the Commission to come forward and state for the record their name, the member to whom the contribution has been made, and the matter of consideration with which they are involved. There are none.

Chairman Biane announces that he will abstain from voting on Item 6. Commissioner Nuaimi announces that he also will abstain from voting on Item 6 as the island area is within the City of Fontana's sphere of influence. Upon her arrival at 9:19 a.m., Commissioner Gonzales advises the Clerk to the Commission that she also will be abstaining on Item 6.

**APPROVAL OF MINUTES FOR REGULAR MEETING OF AUGUST 16, 2006 – MINUTES APPROVED**

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Chairman Biane calls for any corrections, additions, or deletions to the minutes. There are none. Commissioner Nuaimi moves approval of the minutes as presented, seconded by Commissioner Colven. Chairman Biane calls for a voice vote on the motion and it is as follows: Ayes: Biane, Colven, Cox, Hansberger, McCallon, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: None.

**CONSENT ITEMS**

LAFCO considers the items listed under its consent calendar. Chairman Biane states that the consent calendar consists of:

- (1) approval of the Executive Officer's expense report;
- (2) approval of payments as reconciled for the months of July and August, 2006 and noting cash receipts;
- (3) consideration of LAFCO SC#292—City of Loma Linda Irrevocable Agreement to Annex for Water and Sewer Service (La Loma Federal Credit Union); and,
- (4) consideration of a request for withdrawal of LAFCO 2977—Reorganization to Include Formation of County Service Area 120 and Dissolution of County Service Area 70 Improvement Zones OS-1 and OS-3 (North Etiwanda Open Space Preserve)

A Visa Justification for the Executive Officer's expense report, as well as staff reports outlining the staff recommendations for the reconciled payments and each of the other consent items, have been prepared and a copy of each is on file in the LAFCO office and is made a part of the record by reference herein. A Travel Claim, which was not a part of the Agenda packets, was provided to the Commission this morning for consideration. The Notice of Hearing for LAFCOs SC#292 and 2977 were advertised as required by law through publication in The Sun, a newspaper of general circulation. In addition, LAFCO SC#292 was advertised in the Loma Linda City News, a newspaper of general circulation in the area. Individual mailed notice of the proposals was provided to affected and interested agencies, County departments and those agencies and individuals requesting mailed notice.

Chairman Biane asks if there is anyone wishing to speak on any of the consent calendar items. There is no one.

Commissioner Hansberger moves approval of the staff recommendations for the consent calendar items, seconded by Commissioner Cox. Chairman Biane calls for any objections to the motion. There being none, the voice vote is as follows: Ayes: Biane, Colven, Cox, Hansberger, McCallon, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: None.

**CONTINUED ITEM**

**CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3048B; AND (2) LAFCO 3048B – CITY OF FONTANA ANNEXATION NO. 168 (ISLAND NO. 3) – APPROVE STAFF RECOMMENDATION**

(It is noted that Commissioners Biane, Gonzales and Nuaimi have indicated they will abstain from voting on this item. They leave the hearing at 9:20 A.M.)

In the absence of Chairman Biane, Vice Chairman Colven assumes the Chair.

LAFCO conducts a continued public hearing to consider the annexation of Island No. 3, encompassing approximately 108+/- acres, to the City of Fontana (hereinafter "the City"). The annexation area, as modified, is generally bordered by Almond Avenue on the east, Jurupa Avenue on the south, a combination of Calabash and Mulberry Avenues on the west and parcel boundaries on the north, within the City's southwestern sphere of influence. Notice of this hearing was advertised as required by law

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through publication in The Sun and the Fontana Herald News, newspapers of general circulation in the area. Individual mailed notice of this hearing was provided to affected and interested agencies, County departments, those individuals and agencies requesting mailed notice and landowners and registered voters within and surrounding the modified annexation area pursuant to State law and Commission policy.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Ms. McDonald reports that at the August 16 hearing, the Commission excluded Island No. 3 from the larger City reorganization, established it as its own proposal, and continued its consideration to today. She shows the original configuration of Island No. 3 on the displayed map, explaining that the rationale for the continuance was that staff discovered a parcel split during the processing of the proposal and wanted to consider concerns expressed by the owner of the divided parcel (Assessor Parcel Number 0236-151-67), Fedex Freight. She says that staff originally proposed to expand Island No. 3 to include the divided parcel and the smaller parcel owned by Fedex immediately north along Mulberry Avenue, but Fedex Freight requested exclusion of its parcel on the basis of the current processing of a development proposal in the County, as outlined in the staff report. Ms. McDonald says that LAFCO and City staff met to discuss this and the City requested that this proposal be modified to exclude the Fedex parcel in its entirety. She notes that the City anticipates annexing all of its sphere area southerly of the I-10 Freeway in the not to distant future and prefers to address all of the Fedex Freight landholdings in that follow-up proposal. She says staff is recommending that the Commission modify this proposal to exclude Fedex's parcel and move forward to consider annexation of the balance of the island.

Ms. McDonald states that this island has been evaluated against the criteria identified in Government Code Section 56375.3 and Commission policies as outlined in the staff report. She reports that the island is less than 150 acres; it is 108+/- acres; it greater than 57% surrounded by existing City boundaries; it is substantially developed or developing; it does not contain prime agricultural land; and the area will benefit from annexation, with some parcels currently receiving benefits from the City through the extension of sewer service outside the City's boundaries. She notes that the City conducted an extensive outreach program to review this annexation with residents and landowners. She reports that this area is not a part of a County Redevelopment Area, so no County consent is required. She says that staff believes the Commission can clearly make those determinations and is, therefore, required to approve this proposal without protest from landowners or registered voters.

Ms. McDonald states that the land use and service issues are outlined in the staff report. She says the Commission's Environmental Consultant Tom Dodson and Associates has recommended that this island annexation is statutorily exempt from the California Environmental Quality Act (CEQA). She says the staff recommendation is outlined on pages one and two of the staff report and includes that the Commission: (1) adopt the Statutory Exemption and direct the Clerk to file a Notice of Exemption within five days; (2) modify LAFCO 3048B to exclude APN 0236-151-67 from consideration and approve the modified proposal as an island annexation, as defined in Government Code Section 56375.3, with the listed terms and conditions; (3) waive protest proceedings, as required by Government Code Section 56375.3; and (4) adopt LAFCO Resolution No. 2939 setting forth the Commission's findings and determinations concerning this proposal.

Vice Chairman Colven asks if there is anyone present wishing to speak on this item. There is no one and he closes the hearing.

Commissioner Hansberger moves approval of the staff recommendation, seconded by Commissioner McCallon. Vice Chairman Colven calls for any objections to the motion. There being none, the voice vote is as follows: Ayes: Colven, Cox, Hansberger, McCallon, Pearson, Williams. Noes: None. Abstain: Biane, Gonzales, Nuaimi (Williams voting in his stead). Absent: None.

**DISCUSSION ITEMS**

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(It is noted that Commissioners Biane, Gonzales and Nuaimi return to the hearing at 9:27 A.M. Chairman Biane assumes the Chair.)

**CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3058; AND (2) LAFCO 3058 – CITY OF MONTCLAIR ANNEXATION NO. 26 (MONTE VISTA AVENUE ISLAND) – APPROVE STAFF RECOMMENDATION**

LAFCO conducts a public hearing to consider an application submitted in May 2006 by the City of Montclair (hereinafter “the City”) to annex an area identified as the Monte Vista Avenue Island. The island encompasses 121+/- acres generally located south of State Street, west of parcel lines, north of a combination of Mission Boulevard, Howard Avenue and parcels and east of a combination of Monte Vista Avenue and parcel lines. Notice of this hearing has been advertised as required by law through publication in The Sun and Inland Valley Daily Bulletin, newspapers of general circulation in the area. Individual mailed notice was provided to affected and interested agencies, County departments, those individuals and agencies requesting mailed notice, and landowners and registered voters within and surrounding the annexation area pursuant to State law and Commission policy.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by reference herein. Ms. McDonald shows a map of the annexation area on the overhead display, explaining that the area in the center of the annexation area is noncontiguous territory that has been within the City since 1969 and is the City's Fire Station. She reports that the City's consideration of this area started as a request for annexation for development of three acres which needed sewer service. She says the City worked for some time putting together this application for the entire island area. Ms. McDonald states that staff believes that this island meets the criteria established by State law and Commission policy as outlined in the staff report; and she says the Commission, therefore, is required to approve this annexation pursuant to Government Code Section 56375(a) and 56375.3. In addition, she points out that according to Government Code Section 56375.4, the island must have been created prior to January 1, 2000. She discusses that this proposal meets the requirements of that Section, as outlined in the staff report. She notes that the City conducted outreach and pre-zoning meetings with residents, as required by Commission policy. She says this island is within the existing Mission Boulevard Joint Redevelopment Project Area and she reports that the County Board of Supervisors and the County Redevelopment Agency have consented to the annexation of this area to the City. She states that since this annexation meets all the criteria of Government Code Sections 56375.3 and 56375.4, staff recommends that the Commission approve the annexation without protest of landowners and registered voters.

Ms. McDonald states that the staff report identifies the existing and proposed land uses, pointing out that the County and City land uses are generally compatible. She says the staff report also outlines the service issues, environmental considerations and mandatory findings the Commission is required to make for all island annexations. She says the staff recommendation is outlined on page one of the staff report and includes that the Commission: (1) adopt the Statutory Exemption and direct the Clerk to file a Notice of Exemption within five days; (2) approve LAFCO 3058 as an island annexation with the listed terms and conditions; (3) waive protest proceedings, as required by Government Code Section 56375.3; and (4) adopt LAFCO Resolution No. 2938 setting forth the Commission's findings and determinations.

Commissioner Sedano states the City should be complimented for another excellent report, as well as staff. He asks how the “bite” out of the straight line along the City of Ontario's western border happened. Ms. McDonald explains that it happened in the late 1970's or early 1980's based on the need for sewer service. She says the only available sewer line in the area belonged to the City of Ontario, which did not extend service outside its boundaries, so the only way to provide the service was to allow that change in the sphere of influence and annexation to Ontario. Commissioner Sedano says that maybe the Cities of Montclair and Ontario could get together and “put it all under one roof”.

In response to inquiry of Commissioner Hansberger, Ms. McDonald explains that the island within this area is a noncontiguous annexation of City-owned property where the City Fire Station is. She says the City was able to annex the noncontiguous area in 1969 because it was less than 300 acres, municipally-

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owned and used property. Commissioner Hansberger says that sometime they might want to revisit the current law that allows this type of noncontiguous annexation to see if the needs of cities can be met without creating these types of detached pieces because he has seen cities argue that they need to annex everything in between because they have a detached piece. He says it may be a logical placement of a service but it is an illogical forcing of a boundary.

Chairman Biane asks about the islands to the south and the west and whether they meet the 150 acre threshold. Ms. McDonald responds that the island in the northeastern corner of the City's western sphere will be considered at the November hearing. She says the City has not initiated annexation of the island to the south of this proposal, which she says probably does meet the island annexation criteria. Chairman Biane says that while he also compliments the City, he wants to be sure the Commission's policy is fairly being applied to every jurisdiction.

Commissioner Nuaimi comments that the City's Plan for Service simply has a statement that says there are sufficient revenues to serve the area, but there is no backup fiscal analysis. He asks what the Commission's standard is related to that; whether it is up to the City Council adopting the Plan to determine that there are sufficient funds. Ms. McDonald responds that typically a fiscal impact analysis is required that addresses all the issues related to the sufficiency of revenues. She explains that in this case, because the Commission transferred the responsibility for fire protection to the City through the dissolution of the Monte Vista Fire Protection District, the City was not required to prepare a full fiscal impact analysis.

Chairman Biane opens the public hearing and calls on those wishing to speak.

Jose Campos, a resident in the annexation area, says he is opposed to being annexed because of some bad experiences he has had with the City. He says he has friends and neighbors who live in the City and are not happy because they get bothered by City staff about little things, such as vehicles, which they do not even own, that are parked in front of their houses. Mr. Campos says he does not even live in the City but has been told by a police officer to move his car off the street in front of his house, even though there are no signs telling residents not to park there.

Chairman Biane thanks Mr. Campos for his comments. Commissioner Sedano states that once Mr. Campos is annexed to the City, he can attend the City Council meetings and register his complaints. He says he guarantees that the Mayor and Council will help him with his parking problems.

Rob Clark, the City's Community Development Director, says he is present to support staff's recommendation. Mr. Clark says he appreciates LAFCO staff for their excellent work and tremendous amount of advice given to the City.

Chairman Biane asks if there is anyone else wishing to speak on this item. There is no one and he closes the hearing.

Commissioner McCallon moves approval of staff recommendation, seconded by Commissioner Cox. Chairman Biane calls for objections to the motion. There being none, the voice vote is as follows: Ayes: Biane, Colven, Cox, Hansberger, McCallon, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: None.

**STATUS REPORT ON LAFCO 3053-SPHERE OF INFLUENCE REVIEW (EXPANSION) FOR CITY OF SAN BERNARDINO (ARROWHEAD SPRINGS SPECIFIC PLAN AREA), LAFCO 3050-REORGANIZATION TO INCLUDE CITY OF SAN BERNARDINO ANNEXATION NO. 360 (ARROWHEAD SPRINGS SPECIFIC PLAN AREA) AND LAFCO 3067-REORGANIZATION TO INCLUDE CITY OF SAN BERNARDINO ANNEXATION NO. 361 (SIX ISLANDS)**

Executive Officer Kathleen Rollings-McDonald presents a status report on LAFCOs 3053, 3050 and 3067, three applications submitted by the City of San Bernardino (hereinafter "the City"). Notice of presentation of this status report has been advertised in The Sun, a newspaper of general circulation in

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the areas. Individual mailed notice was provided to affected and interested agencies, County departments and those individuals and agencies requesting mailed notice.

Ms. McDonald discusses the first two applications, a sphere of influence expansion and reorganization including annexation of two areas to the City related to the area of the Arrowhead Springs Specific Plan. She states that at the beginning of the process, staff expanded each of the annexation areas to include an additional parcel that would have become a totally-surrounded island upon completion of the proposal. She says the proposals are being processed through their requirements and says LAFCO will be a responsible agency for environmental review. She points out that at the April 2006 hearing the Commission overrode its policy to await completion of the environmental litigation filed against the City's approval of the Environmental Impact Report (EIR). She reports that the matter went to court; a determination was made; and City attorneys have indicated that two points require further documentation to be presented to the court—support for rejection of the wetlands alternative and a determination that the golf course is required to make the project economically viable. Ms. McDonald says the City's attorneys have indicated no concrete timeframe to resolve these issues but believe they can provide information prior to the October hearing. She says these proposals are scheduled to be considered in October and says the environmental documents will be forwarded to the Commission in the near future. She reports that there are still questions regarding service delivery to be resolved and says staff needs to work with the developer and City staff to get a better feel for water and sewer issues, and says there is still some question as to whether staff will receive the additional environmental information to provide to the Commission in time for the October 18 hearing.

Ms. McDonald discusses LAFCO 3067, which she says is an application for annexation of six islands submitted by the City in response to the Commission's direction at the April 19, 2006 hearing. She says the discussion in April related to 13 islands, but the City initiated six, and its resolution indicates that the City will be working on a time schedule to annex the other islands. She notes that initiating the balance as island annexations hinges on the Governor signing AB 2223, which extends the sunset date for the island annexation provisions to 2014. Ms. McDonald shows the location of the six islands currently under consideration on the map on the overhead display and reports that LAFCO staff is proposing to expand Areas 1 and 4 to take in Flood Control properties to provide a clear and easy delineation between the City and County in these areas. She reports that as submitted, the total acreage was 97 and says that with the proposed expansion the total acreage will be approximately 112. She says these islands will be on the November 15 agenda so no matter what the outcome is of AB 2223, these six islands will fulfill the criteria to be approved prior to January 1, 2007.

Ms. McDonald says the staff report identifies an outline from the City as to how it intends to address the balance of the islands, with two more annexations to be filed on or before January 31, 2007 and three more to be filed on or before January 31, 2008. She says there is no description of which five islands will be filed, but she adds that even if AB 2223 is not signed, the City has committed to initiating the additional areas under normal protest proceedings. She notes that the Del Rosa island was approved and completed. She says no action is required today and, if there are any questions, City staff is also available.

In response to a request of Commissioner Nuaimi, Ms. McDonald points out the City's 13 islands reviewed at the Commission's March 31, 2005 Workshop. Commissioner Hansberger asks what the purpose is of the finger that protrudes upward off Highway 18 as a separate annexation area. Ms. McDonald explains that it is a part of the Arrowhead Springs Specific Plan; that there are portions proposed for development; and that she believes the northerly piece is Open Space. Commissioner Hansberger says there is nothing up there now; that it is basically all open mountainous area; and he says he would like to see the Specific Plan because he thinks it makes a difference in terms of whether that is appropriate for development. He also points out that on the map attached to the staff report, Highway 18 at the lower portion of the upper annexation area is outside the annexation area. He asks staff to look at possibly moving the boundary of the annexation slightly westerly to be sure it is all within one jurisdiction.

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Chairman Biane says the Commission's policy was that initiation of all 12 islands would be part of the package of the Arrowhead Springs proposal. He asks at what point will the Commission consider the City's phased approach to initiating its islands as outlined in its letter and he asks what enforcement the Commission has if it accepts the compromise proposed by the City. Ms. McDonald responds that the Commission's direction in April related to the consideration of the Arrowhead Springs sphere and annexation and she says that there was a commitment at that hearing that in moving forward with those proposals, the City would initiate the islands under the provisions whereby there would be no protest. However, she says that in the interim, the City initiated six islands rather than 12 because of financial issues, but committed to a compromise that it will move forward to bring in the balance of the islands in a phased approach, based on financial issues. She points out that AB 2223 would extend the island annexation proceedings until 2014 and that AB 1602 reinstates Vehicle License Fee (VLF) funding for large-scale annexations and incorporations; but she reiterates that both bills are still on the Governor's desk for signing. She says AB 1602 would provide for a \$50 per capita to be transferred to cities since these annexations will not participate in the "triple flip funding", so she says restoration of the VLF funding would change the financial picture. She says if the Commission feels it is imperative that these other areas be initiated, it can condition its approval of the Arrowhead Springs annexation on initiation of these other areas.

Chairman Biane says that he appreciates that the City initiated the six islands, but he says the Arrowhead Springs annexation will be before the Commission next month and he will reserve his comments about what the Commission hopes the City could accomplish, knowing then the outcome of the legislation.

Commissioner Nuaimi comments that when the Arrowhead Springs annexation comes before the Commission, he assumes there will be a fiscal analysis that shows the amount of property tax revenue generated which will benefit the City. He says having that information, and also knowing the fiscal deficit associated with annexation of the islands, would be helpful so the Commission can compare them to see what the fiscal impact to the City is. He says the perception is that the City initiated annexation of only six islands because of a fiscal imbalance and asks whether any analysis has been completed which shows that there truly is a fiscal imbalance. He adds that he suspects that having the VLF funding would also make a substantial difference. Ms. McDonald says staff can evaluate what the existing property tax transfer process will be for the Arrowhead Springs area as it is annexed to the City in an undeveloped nature. She says staff knows what the property tax and special assessment revenues are that will be transferred to the City for the six islands. She says if the City will provide information as to what islands will be initiated according to its schedule, additional information can be obtained from the Assessor. Commissioner Nuaimi says he assumes the City has done an analysis in order to know that it can afford to annex six islands but it cannot afford to annex 13, so he says information at that level would be helpful. Ms. McDonald says the City will be requested to submit that information and the Commission will receive it at the next hearing.

(It is noted that Commissioner Curatalo leaves the hearing at 10:05 A.M.)

Commissioner Hansberger asks whether approaching this issue by doing a municipal reorganization in which boundaries are changed between the Cities of San Bernardino and Highland and the County, and making overall boundary adjustments, would change the playing field. Ms. McDonald responds that it would because it would require detachments from the Cities which would require the consent of the Cities, and the entire proposal would be terminated if either City objected. Commissioner Hansberger says if done properly, everyone should be a winner; that it should be a better arrangement of municipal boundaries with conditions attached to assure that each jurisdiction can be more efficient and effective in the provision of services. He points out that what is before the Commission could ultimately shrink some islands, leaving smaller areas that have to be served by another jurisdiction less efficiently than the bigger island could be served. Ms. McDonald explains that the goal of the Commission's policies for islands was to resolve the islands in their entirety, which was the reason for the policy declaration related to "substantially surrounded". She says discussions would need to take place between the two Cities and a consensus reached since objection by either City would thwart the effort. Commissioner Hansberger says both Cities are represented by people who are reasonable enough to want to reach a conclusion

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that would be beneficial to all parties and he says he believes now would be a good time for that discussion.

Commissioner McCallon states that the City of Highland formed an Ad Hoc Committee and initiated discussions with the Mayor of San Bernardino, which are in the preliminary stages, to see whether there is something the Cities can do about the jagged boundaries that do not make sense in a lot of areas. Commissioner Hansberger responds that he does not think it would hurt the discussion if each party has something it wants which has to come before LAFCO and there is some leverage for the Commission to ask them to get serious about the discussion. He adds that it may be the Commission's duty to create an environment to try to find a solution that will work for everyone.

Emil Marzullo with the Office of the Mayor states that the City's two projects currently in process are tied together by legislative intent. Mr. Marzullo says that as the City looked at the purpose of the annexations, which is not just to make boundaries look good on a map but to improve public services, the internal review looked at it from the standpoint of whether the City could provide a level of service and better quality of life for the new residents, and whether the City could do that in all the annexed areas on day one. He says the answer was that the City could not, for a number of reasons. He explains that the City is in a fiscal crisis in terms of law enforcement and code enforcement and says the Administration is 100% committed to changing the culture of the city bit-by-bit. He says that law enforcement, code enforcement and related public services were of primary concern as they looked at all areas and recommended to the Commission that the City could not take all the islands in simultaneously in "one fell swoop". He says the City decided it could take in six islands now and could, through an incremental approach over a couple of years, hopefully through a sales tax increase on the ballot this year, annex the others. He says if the City annexed all the islands at once and failed to provide a better quality of service, then the City would have failed in the process. Mr. Marzullo reports that Areas 1 and 6 are proposed to be annexed in 2007 and Areas 2, 7 and 8 in 2008, He says the City believes that with the combination of taxes and, hopefully, VLF funds, the City will have sufficient resources to make the City whole in terms of its fiscal situation and the annexations will proceed without further ado.

Commissioner Hansberger asks whether the Commission can condition the annexation of the islands with a schedule for the timing of when the City assumes jurisdiction so the islands could be assumed at a rate that meets the City's ability to serve them. Legal Counsel Clark Alsop responds no, stating that the Commission has some flexibility with effective dates but cannot have an effective date for part of the annexation for one year and an effective date for another part of the annexation in two years. He notes, however, that the Commission could achieve that in the way the City of Watsonville did--with special legislation that planned out how the City would annex over a 20-year period. He says that without special legislation, the Commission could indicate the intent of how this should be approached. Commissioner Hansberger discusses that the problem with intent is there is no enforcement ability. Chairman Biane states that the City's annexation will be before the Commission in the near future and that the Commission at that time will have to make tough decisions on what type of enforcement there is on the City's commitment to annex its islands, and what position the legislation leaves them in.

Commissioner McCallon asks whether the Commission would like to give staff direction to facilitate discussions between the Cities of Highland and San Bernardino to see if some mutual agreement on boundaries could be reached. Commissioner Hansberger says there is no item on the agenda to give that direction today but says he would encourage staff to work with the jurisdictions to look for mutually acceptable boundary adjustments in a manner that is mutually beneficial for all parties. Mr. Alsop says that if that is something the Commission wants to consider, it should be on the next agenda for formal action. Commissioner Nuaimi expresses concern about staff's current workload given the schedule of activity, specifically between now and November. He says he hopes there will be substantive discussion and dialogue between the Cities prior to that. Ms. McDonald responds that staff will be happy to try to facilitate a resolution of this boundary. She adds that it will probably not happen until after November but says staff will try to put together meetings to discuss that.

Chairman Biane asks that this matter be placed on the next agenda so that staff can be given direction.

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(It is noted that Commissioner Hansberger leaves the hearing at 10:20 A.M.)

**YEAR-END FINANCIAL REPORT – APPROVE STAFF RECOMMENDATION**

LAFCO Analyst Michael Tuerpe presents the staff report providing the year-end financial report for Fiscal Year (FY) 2005-06. Notice of presentation of this financial report has been advertised in The Sun, a newspaper of general circulation in the areas. Individual mailed notice was provided to affected and interested agencies and County departments.

Mr. Tuerpe states that the spreadsheet attached to the staff report outlines that the expenditures within the 1000 series of accounts exceeded appropriation authority by about \$2,900 and that expenditures within the 2000 series exceeded appropriation authority by about \$33,600, specifically with Legal Counsel costs exceeding year-end estimates by over \$37,000 due to the filing of CEQA litigation. However, he reports that total revenues exceeded projections by about \$210,000 due in part to the rush of island annexation applications received. He also discusses the chart attached to the staff report which identifies the number of proposals and service contracts received during FY 2005-06. He points out that of the 27 proposals received, the City of Fontana's proposal, which includes the annexation of 32 separate islands, could have been processed individually; and he says the County Fire Reorganization proposal affects 28 separate agencies. He reports that staff is working on the Municipal Service Reviews and the Commission should see those in the coming months.

For FY 2006-07, Mr. Tuerpe states that staff is requesting the acquisition of a security system for the LAFCO office. He says the office has a security system but it is not activated; and he says activation will require authorization for two separate contracts, one for activation and one for monitoring, connection fees and the installation of a dedicated Verizon phone line. He says staff recommendation 2C authorizes the Executive Officer to sign the contracts with Mijac Alarm and authorizes an increase in appropriation authority in the 2000 series as outlined in the staff report. Mr. Tuerpe says that if the Commission approves the alarm system, that will increase the amount of expenditures for 2006-07. In addition, he says that last year the Commission experienced greater than anticipated revenues, which increased the amount of carryover into this FY. He explains that acknowledging the increase in carryover does not provide for a balanced budget for FY 2006-07 and says that staff is recommending an increase in the Reserve Account and Expenditure Accounts to balance the budget.

Mr. Tuerpe states that the staff recommendation is outlined on pages one and two of the staff report and includes that the Commission: (1) for FY 2005-06, acknowledge expenditures in excess of budget in the 1000 series of accounts of \$2,921 and the 2000 series of accounts of \$33,629, and receipt of revenues in excess of budget of \$215,750; and (2) for FY 2006-07, increase Revenue Account 9970 Cash Carryover from Prior Year to \$174,217 and Total Revenues to \$1,110,167; increase Account 6025 Reserves to \$56,568 to balance Appropriations and Revenues at \$1,110,167; and take the listed actions necessary to approve contracting with Mijac Alarm for a security alarm system for the LAFCO office.

Chairman Biane asks if there are any questions regarding this item. There are none.

Commissioner Nuaimi moves approval of staff recommendation, seconded by Commissioner Cox. Chairman Biane calls for objections to the motion. There being none, the voice vote on the motion is as follows: Ayes: Biane, Colven, Cox, Gonzales, McCallon, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: Hansberger (Gonzales voting in his stead).

**PENDING LEGISLATION REPORT**

Executive Officer Kathleen Rollings-McDonald reports that AB 2223, AB 2259, and AB 1602, the bills of the most concern to the Commission, have been enrolled and are sitting on the Governor's desk for signature. She says the CALAFCO Legislative people have indicated that the signing of these bills should be anticipated but she says nothing is assured.

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She reports that CALAFCO is seeking to work with the Public Utilities Commission (PUC) regarding private water companies and says she is part of the legislative group that will meet with the PUC to look at legislative changes that will bring LAFCO into this process. She says that currently LAFCO is notified when a private water company proposes to expand its certificated service area; but she says the question posed to LAFCO is whether there is an existing public agency within the area, not whether there is a public agency sphere of influence in the area. She says they are seeking to work with the PUC to expand the information that is exchanged.

**EXECUTIVE OFFICER'S ORAL REPORT**

Ms. McDonald states that those attending the CALAFCO Annual Conference have been provided with a Conference evaluation form. She asks that the form be filled out and returned to staff, or that the evaluation be called into the staff office so the responses can be returned to CALAFCO.

She says the Commission has been presented today with a letter that staff forwarded to the City of Victorville regarding its proposed annexation of 2,720 acres. She says that staff became aware of this annexation through contact with a newspaper reporter and that the City did not provide the environmental documents for staff's review and comment. She reports that staff's cursory review called into question a number of the decisions made, so the letter was sent to the City indicating that if the annexation is submitted in its current form, LAFCO will not use the City's environmental documents as a responsible agency, but the Commission will assume lead agency status for that environmental review. She says she wanted the Commission to be aware of this issue since the annexation is a major undertaking for the City of Victorville.

She reports that the October agenda will be reasonably light, except that it will have on it the City of San Bernardino Arrowhead Springs proposals and a status report on the County Fire Reorganization. She says she will be requesting some direction from the Commission on how to process the County Fire Reorganization proposal. As mentioned by Mr. Tuerpe, she says staff hopes to begin to discuss the North County Service Reviews for the Cities of Adelanto, Victorville and Hesperia soon since staff is coming under a time crunch to meet the January 1, 2008 deadline.

**COMMISSIONER COMMENTS**

Commissioner Sedano comments that he was better able to hear the presentations today with staff using the podium to his right. He also thanks Legal Counsel Clark Alsop and his law firm of Best Best & Krieger for hosting the dinner and ballgame in San Diego during the CALAFCO Conference.

Commissioner Nuaimi congratulates the 12,000 plus residents that became official Fontana residents through the approval of the annexation of 27 islands last month. He states that assuming the Governor will sign AB 2223, this Commission needs to have a follow-up discussion regarding its policy related to the outreach program the cities are required to perform. He says the current policy requires cities to perform an education campaign prior to submitting an application to LAFCO, but he notes that outreach for most of the cities has taken place after submission of the application. He discusses that cities are required to go through a public hearing process in order to submit an application to LAFCO and he says to force them to go beyond that prior to even taking an action to initiate the application does not seem fair. He points out that the annexation of island areas has historically been a contentious issue and he says the Commission adopted that policy because it did not want a lot of residents coming before the Commission having never been talked to by the city about annexation. He uses Fontana as an example, stating it held a public hearing to approve initiating the annexation application and then spent months after the application was submitted to LAFCO reaching out to the residents, which resulted in just a "splattering" of opposition, not including people in the Bloomington islands. He says he does not believe the way the policy was written matches what the Commission's intent was and the policy should be discussed.

Commissioner Cox comments that she recalls that about a year and a half ago the County Board of Supervisors adopted an administrative policy which gave a larger property tax increment to annexed

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islands. She asks whether that policy is still in effect since the City of San Bernardino has raised the issue that annexation of the balance of its islands is not feasible.

Chairman Biane says that policy is still in effect and there is no sunset on it. He says it sets a minimum of 7% for a City, but he points out that the City of San Bernardino receives in excess of 7%. Ms. McDonald explains that the problem for the City of San Bernardino is that it cannot charge its 8% utility tax, which subsidizes police and code enforcement issues, in these island areas because there is no ability for protest or to cause an election like there is in the normal annexation process. She says that issue will be more fully identified next month.

**COMMENTS FROM THE PUBLIC**

Chairman Biane calls for comments from the public. There are none.

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION, THE HEARING IS  
ADJOURNED AT 10:35 A.M.**

**ATTEST:**

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**DEBBY CHAMBERLIN**  
Clerk to the Commission

**LOCAL AGENCY FORMATION COMMISSION**

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**PAUL BIANE, Chairman**